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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 10/510,896   | 10/08/2004  | Martin Dottling      | 071308.1121<br>(2002P05746WO) | 8560             |
| 86528  | 7590        | 09/24/2009           | EXAMINER                      |                  |
| King & Spalding LLP<br>401 Congress Avenue<br>Suite 3200<br>Austin, TX 78701 |             |                      | TRAN, PHUC H                  |                  |
|  |             |                      | ART UNIT                      | PAPER NUMBER     |
|  |             |                      | 2416                          |                  |
|  |             |                      | MAIL DATE                     | DELIVERY MODE    |
|  |             |                      | 09/24/2009                    | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/510,896 | <b>Applicant(s)</b><br>DOTTLING ET AL. |  |
|                              | <b>Examiner</b><br>PHUC H. TRAN      | <b>Art Unit</b><br>2416                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-34, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehn et al. (U.S. Patent No. 6819718).

- With respect to claims 33-34 and 36-37, Koehn teaches a method for adjusting the data rate of a data stream in a communication device such that the data stream is divided into at least one data block including transmission bits to be transmitted (e.g. the data frame 8 in Fig. 2 to data block 14), comprising: forming the transmission bits from information-carrying input bits by an encoding process (e.g. encoder in Fig. 3);

removing specific transmission bits from a data block of the data stream for the adaptation of the data rate (e.g. Fig. 4 shows the remove bits); removing the transmission bits according to a dotting pattern (see col. 6, lines 20-60). Koehn fails to disclose configuring the dotted pattern that 8 of 48 bits of the data block are dotted, and the 8 to 48 bits of the data block are bits 1, 2, 4, 8, 42, 45, 47 and 48. But Koehn teaches the puncture routines as in Fig. 3-5.

Thus, it would have been obvious to person of ordinary skill in the art at the time of the invention was made to understand the puncture/dotting/repeat pattern is the desired choice of inventor to select the pattern in the communication device. The puncturing pattern 8 of 48 bits of data block

is the standard (Release 99), it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement into Koehn for rate matching.

- With respect to claims 38-39, Koehn discloses the communication device is one of a mobile radio transmission device or mobile radio reception device (e.g. Fig. 1 shows the stations).

- With respect to claims 35 and 40, Koehn discloses all the aspect of the claimed invention as set forth above but fails to teach wherein the transmission bits to be transmitted are transmitted via the HS-SCCH corresponding to the UMTS standard (col. 3, line 45).

### ***Response to Amendment***

3. Applicant's arguments with respect to claims 33-41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2416

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/

Primary Examiner, Art Unit 2416